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HOUSE . . . . . No. 746

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to the posting of fish advisories..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 3 of chapter 90B of the General Laws, as it appears in the official 2006 edition, is hereby amended by inserting after the word “number.” in line 12 the following:—The director shall issue a written advisory as provided in section 4B of chapter 130 with every issuance of a certificate of number.

SECTION 2. Chapter 90B is further amended by inserting after section 4B the following section:—Section 4C. (a) The advisory as provided is section 4B of chapter 130 shall be posted at any boat launching facility managed by the division of fisheries and wildlife, the department of conservation and

recreation, or any municipality.

(b) Whoever is in the business of providing recreational fishing tours, including but not limited to, chartered fishing trips, shall provide to any customer on board the written advisory as provided in section 4B of chapter 130.

SECTION 3. Chapter 94 of the General Laws is hereby amended by inserting after section 88D the following new sections:— Section 88E. (a) Wherever raw or cooked fish is offered for human consumption either at a retail food facility, over a counter, by a sign, tag, or menu board, a written advisory shall be posted in a prominent location so that it is likely to be read by the consumer prior to ordering. The advisory shall contain the following:

FISH ADVISORY

Some fish contain high levels of a form of mercury that can harm the developing nervous system of the fetus and young child if eaten regularly. Certain fish contain higher levels than others. Pregnant and nursing women, women who may become pregnant, and young children should not eat the following fish:

SWORDFISH, SHARK, KING MACKEREL, TILEFISH, TUNA STEAK, AND MASSACHUSETTS FRESHWATER FISH EXCEPT THOSE STOCKED BY THE DIVISION OF FISHERIES AND WILDLIFE Limit all other fish to an average of 12 ounces, approximately 2 meals per week.

Mercury levels in canned tuna vary, but on average are lower than levels in many other fish. Light tuna has been shown to contain less mercury than chunk white (albacore) tuna.

Fish and seafood can be an important source of nutrients and part of a balanced diet. By being informed about the risks of mercury and knowing the kinds of fish that are safe to eat, you can prevent harm to your child and still enjoy the health benefits of eating seafood.

This warning is based on U.S. FDA, U.S. EPA and Massachusetts DPH advisories.

(b) Where fish is purchased by a consumer over the counter, the warning signs shall meet the following specifications:

(i) Be square in shape and no smaller than 10 inches on a side or be rectangular in shape and no smaller than 11 inches wide by 8.5 inches high.

(ii) Be printed in a color of ink that is in high contrast to the color of the background material. (iii) At least 1/3 inch margin shall be maintained around the notice.

(iv) The words, “Fish Advisory” shall be centered at the top of the advisory, in all bold, upper case letters and shall be no smaller than 35 point type face.

(v) The first three sentences shall be no smaller than 25 point type face, and the first two sentences shall be in all bold letters. The specific names of fish, as contained in the third sentence shall be in all bold, upper case letters. The remaining sentences shall be no smaller than 20 point type face.

(vi) Include current contact information for the U.S. Food and Drug Administration and the Massachusetts Department of Public Health, including, but not limited to, phone numbers and web addresses, for additional information relative to mercury contamination in fish.

(c) Where fish is ordered directly from a server or at a dining table, warnings shall be printed on all menus in which fish is listed so that it is likely to be read by consumers prior to ordering fish. For menus, the warning must contain, at a minimum, the header and the first two sentences as set forth in subsection (a) of this section and shall be no smaller than 10 point type face.

(d) The department of public health shall enforce the provisions of this section and shall from time to time adopt rules and regulations for the enforcement thereof.

SECTION 4. Chapter 130 of the General Laws is hereby amended by inserting the following section:— Section 4B. The department of fish and game shall, in cooperation with the department of public health, develop a written advisory warning of the dangers posed to pregnant women, nursing women, women who may become pregnant, and young children, of consuming certain fish due to elevated levels of mercury. Fish to be listed in said advisory shall include, but not be limited to, swordfish, shark, king mackerel, tilefish and tuna steak, in addition to fish caught in Massachusetts freshwater bodies, including but not limited to, streams, rivers, lakes and ponds, due to elevated levels of mercury in fish. The advisory shall not apply to fish stocked in fresh water bodies by the division of fisheries and wildlife.

SECTION 5. Chapter 130 of the General Laws is hereby amended by inserting after section 75 the following section:—Section 75A. The division and any municipality, where applicable, shall provide a written advisory as provided for in section 4B of chapter 130 to every person issued a noncommercial permit for the taking or harvesting of lobster, crab or any other shellfish.

SECTION 6. Chapter 131 of the General Laws is hereby amended by inserting after section 12 the following section:—Section 12A. The division shall provide a written advisory as provided for in section 4B of chapter 130 to every person issued a fishing license.

SECTION 7. The office of law enforcement within the executive office of environmental affairs shall enforce the provisions set forth in sections one, four and five of this act.

SECTION 8. This act shall take effect no later than January 1, 2010.